

## **CHAPTER 33-24-04 STANDARDS FOR TRANSPORTERS**

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### **33-24-04-01. Scope.**

1. This chapter establishes standards which apply to persons transporting hazardous waste within this state if the transportation requires a manifest under chapter 33-24-03.
2. This chapter does not apply to onsite transportation of hazardous waste by generators or by owners or by operators of permitted hazardous waste management facilities.
3. A transporter of hazardous waste must also comply with chapter 33-24-03 if the transporter:
  - a. Transports hazardous waste into this state from abroad; or
  - b. Mixes hazardous waste of different department of transportation shipping descriptions by placing them into a single container.

[NOTE: The transporter in complying with these requirements does not become the generator of the waste.]

4. [Reserved]
5. Persons responding to an explosives or munitions emergency in accordance with subparagraph d of paragraph 1 of subdivision g of subsection 6 of section 33-24-05-01 or paragraph 4 of subdivision g of subsection 6 of section 33-24-05-01 or 40 CFR 265.1(c)(11)(i)(D) or (iv) as incorporated by reference in subsection 5 of section 33-24-06-16, and item 4 of subparagraph a and subparagraph c of paragraph 9 of subdivision b of subsection 2 of section 33-24-06-01, are not required to comply with the standards of chapter 33-24-03.

6. Section 33-24-05-823 identifies how the requirements of this part apply to military munitions classified as solid waste under section 33-24-05-822.

**History:** Effective January 1, 1984; amended effective December 1, 1991; December 1, 2003.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

#### **33-24-04-02. Identification number and registration certificate.**

1. A transporter may not transport hazardous wastes without having received an identification number, a transporter permit, and a registration certificate from the department.
2. A transporter who has not received an identification number and a registration certificate, or a transporter permit, may obtain them by applying to the department. Upon receiving the request, the department will assign an identification number and issue a registration certificate to the transporter.
3. The department may assess and collect reasonable fees for the issuance of registration certificates and transporter permits.

**History:** Effective January 1, 1984; amended effective December 1, 2003.

**General Authority:** NDCC 23-20.3-03, 23-20.3-05.1

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04, 23-20.3-05.1

**33-24-04-03. Transfer facility requirements.** A transporter who stores manifested shipments of hazardous waste in containers meeting the requirements of section 33-24-03-08 at a transfer facility for a period of ten days or less is not subject to regulation under chapters 33-24-05 and 33-24-06 with respect to the storage of those wastes.

**History:** Effective January 1, 1984.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

#### **33-24-04-04. The manifest system.**

1. A transporter may not accept hazardous waste from a generator unless it is accompanied by a manifest signed in accordance with the provisions of section 33-24-03-04. In the case of exports, a transporter may not accept such waste from a primary exporter or other person (1) if the transporter knows the shipment does not conform to the environmental protection agency acknowledgment of consent; and (2) unless, in addition to a manifest signed in accordance with provisions of section 33-24-03-04, such waste is also accompanied by an environmental protection agency acknowledgment of consent

which, except for shipment by rail, is attached to the manifest (or shipping paper for exports by water (bulk shipment)).

2. Before transporting the hazardous waste, the transporter must sign and date the manifest acknowledging acceptance of the hazardous waste from the generator. The transporter must return a signed copy to the generator before leaving the generator's property.
3. The transporter shall ensure that the manifest accompanies the hazardous waste. In the case of exports, the transporter shall ensure that a copy of the environmental protection agency acknowledgment of consent also accompanies the hazardous waste.
4. A transporter who delivers a hazardous waste to another transporter or to the designated facility must:
  - a. Obtain the date of delivery and the handwritten signature of that transporter or of the owner or operator of the designated facility on the manifest;
  - b. Retain one copy of the manifest in accordance with section 33-24-04-06; and
  - c. Give remaining copies of the manifest to the accepting transporter or designated facility.
5. The requirements of subsections 3, 4, and 6 do not apply to water (bulk shipment) transporters if:
  - a. The hazardous waste is delivered by water (bulk shipment) to the designated facility;
  - b. A shipping paper containing all the information required on the manifest (excluding the identification numbers, generator certification, and signatures) and, for exports, and environmental protection agency acknowledgment of consent accompanies the hazardous waste;
  - c. The delivering transporter obtains the date of delivery and handwritten signature of the owner or operator of the designated facility on either the manifest or the shipping paper;
  - d. The person delivering the hazardous waste to the initial water (bulk shipment) transporter obtains the date of delivery and signature of the water (bulk shipment) transporter on the manifest and forwards it to the designated facility; and

- e. A copy of the shipping paper or manifest is retained by each water (bulk shipment) transporter.
6. For shipments involving rail transportation, the requirements of subsections 3, 4, and 5 do not apply and the following requirements do apply:
- a. When accepting hazardous waste from nonrail transporter, the initial rail transporter must:
    - (1) Sign and date the manifest acknowledging acceptance of the hazardous waste;
    - (2) Return a signed copy of the manifest to the nonrail transporter;
    - (3) Forward at least three copies of the manifest to:
      - (a) The next nonrail transporter, if any; or
      - (b) The designated facility, if the shipment is delivered to that facility by rail; or
      - (c) The last rail transporter designated to handle the waste in the United States; and
    - (4) Retain one copy of the manifest and rail shipping paper in accordance with section 33-24-04-06;
  - b. Rail transporters shall ensure that a shipping paper containing all the information required on the manifest (excluding the identification numbers, generator certification, and signatures) and, for exports, an environmental protection agency acknowledgment of consent accompanies the hazardous waste at all times;  
  
[NOTE: Intermediate rail transporters are not required to sign either the manifest or shipping paper.]
  - c. When delivering hazardous waste to the designated facility, a rail transporter must:
    - (1) Obtain the date of delivery and handwritten signature of the owner or operator of the designated facility on the manifest or shipping paper (if the manifest has not been received by the facility); and
    - (2) Retain a copy of the manifest or signed shipping paper in accordance with section 33-24-04-06;

- d. When delivering hazardous waste to a nonrail transporter, a rail transporter must:
    - (1) Obtain the date of delivery and the handwritten signature of the next nonrail transporter on the manifest; and
    - (2) Retain a copy of the manifest in accordance with section 33-24-04-06; and
  - e. Before accepting hazardous waste from a rail transporter, a nonrail transporter must sign and date the manifest and provide a copy to the rail transporter.
7. Transporters who transport hazardous waste out of the United States must:
- a. Indicate on the manifest the date the hazardous waste left the United States;
  - b. Sign the manifest and retain one copy in accordance with subsection 3 of section 33-24-04-06;
  - c. Return a signed copy of the manifest to the generator; and
  - d. Give a copy of the manifest to a United States customs official at the point of departure from the United States.
8. A transporter transporting hazardous waste from a generator who generates greater than one hundred kilograms but less than one thousand kilograms of hazardous waste in a calendar month need not comply with the requirements of this section or those in section 33-24-04-06 provided that:
- a. The waste is being transported pursuant to a reclamation agreement as provided in subsection 5 of section 33-24-03-04;
  - b. The transporter records, on a log or shipping paper, the following information for each shipment:
    - (1) The name, address, and identification number of the generator of the waste;
    - (2) The quantity of waste accepted;
    - (3) All department of transportation required shipping information; and
    - (4) The date the waste is accepted;

- c. The transporter carries this record when transporting waste to the reclamation facility; and
- d. The transporter retains these records for a period of at least three years after termination or expiration of the agreement.

**History:** Effective January 1, 1984; amended effective December 1, 1988; January 1, 1994.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

#### **33-24-04-05. Compliance with the manifest.**

1. The transporter must deliver the entire quantity of hazardous waste which the transporter has accepted from a generator or a transporter to:
  - a. The designated facility listed on the manifest;
  - b. The alternate designated facility, if the hazardous waste cannot be delivered to the designated facility because an emergency prevents delivery;
  - c. The next designated transporter; or
  - d. The place outside the United States designated by the generator.
2. If the hazardous waste cannot be delivered in accordance with subsection 1, the transporter must contact the generator for further directions and must revise the manifest according to the generator's instructions.

**History:** Effective January 1, 1984; amended effective January 1, 1994.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

#### **33-24-04-06. Recordkeeping.**

1. A transporter of hazardous waste must keep a copy of the manifest signed by the transporter, the generator, and the next designated transporter or the owner or operator of the designated facility for a period of three years from the date the hazardous waste was accepted by the initial transporter.
2. For shipments delivered to the designated facility by water (bulk shipment), each water (bulk shipment) transporter must retain a copy of the shipping paper containing all of the information required in subdivision b of subsection 5 of section 33-24-04-04 for a period of

three years from the date the hazardous waste was accepted by the initial transporter.

3. For shipments of hazardous waste by rail within the United States:
  - a. The initial rail transporter must keep a copy of the manifest and shipping paper with all the information required in subdivision b of subsection 6 of section 33-24-04-04 for a period of three years from the date the hazardous waste was accepted by the initial transporter; and
  - b. The final rail transporter must keep a copy of the signed manifest (or the shipping paper if signed by the designated facility in lieu of the manifest) for a period of three years from the date the hazardous waste was accepted by the initial transporter.
4. A transporter who transports hazardous waste out of the United States must keep a copy of the manifest indicating that the hazardous waste left the United States for a period of three years from the date the hazardous waste was accepted by the initial transporter.
5. The periods of retention referred to in this section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the department.

**History:** Effective January 1, 1984; amended effective January 1, 1994.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

#### **33-24-04-07. Immediate action.**

1. In the event of a discharge of hazardous waste during transportation, the transporter must take appropriate immediate action to protect human health and the environment, e.g., notify local authorities and dike the discharge area.
2. If a discharge of hazardous waste occurs during transportation and an official of a state or local government or a federal agency, acting within the scope of official responsibilities, determines that immediate removal of the waste is necessary to protect human health or the environment, that official may authorize the removal of the waste by transporters who do not have identification numbers and without the preparation of a manifest.
3. An air, rail, highway, or water transporter who has discharged hazardous waste must:
  - a. Give notice, if required by 49 CFR 171.15 to the national response center (800-424-8802 or 202-426-2675); and

- b. Report in writing as required by 49 CFR 171.16 to the director, office of hazardous materials regulations, materials transportation bureau, department of transportation, Washington, District of Columbia 20590.
4. A water (bulk shipment) transporter who has discharged hazardous waste must give the same notice as required by 33 CFR 153.203 for oil and hazardous substances.

**History:** Effective January 1, 1984.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

**33-24-04-08. Discharge cleanup.** A transporter must clean up any hazardous waste discharge that occurs during transportation or take such action as may be required or approved by federal, state, or local officials so that the hazardous waste discharge no longer presents a hazard to human health or the environment.

**History:** Effective January 1, 1984.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04